

EDWARD TUDDENHAM

ATTORNEY AT LAW

153 UPLAND RD.

CAMBRIDGE, MASS. 02140

Tel: (617) 576-2182 Fax: (512) 532-7780

etudden@io.com

September 13, 2006

Hon. Gregory M. Sleet
J. Caleb Boggs Federal Building
844 N. King St.
Room 4234 Lockbox 19
Wilmington, DE 19801

Re: *Villanueva-Bazaldua v. TruGreen Limited Partners, et al.*, CA 06-CV-185 GMS

Dear Judge Sleet:

I am writing in response to Defendants' letter to you of this same date requesting that the decision in Plaintiff's pending motion for conditional certification of an FLSA class (D.I. 14) be stayed until after Defendants have deposed Plaintiff on October 5 and submitted "supplemental briefs" based on Plaintiff's deposition. Plaintiff opposes Defendant's request for the reasons set forth in his opposition (D.I. 17) to Defendant's Motion for Expedited Discovery – e.g. (1) the statute of limitations continues to run on the FLSA claims of the class making a prompt decision on issuing notice vital and (2) the only question presented by Plaintiff's motion for conditional certification is whether Defendant's H-2B workers are "similarly situated" with respect to the allegation that Defendant's failure to pay for the visa and transportation costs of H-2B workers violates the FLSA. All information relevant to that question is within Defendant's possession, making a deposition and further briefing unnecessary. *See Robinson v Eastman Kodak*, 2003 WL 24183368 (W.D.N.Y. 2003) (denying defendants request for discovery of named plaintiff prior to certifying collective action).

Sincerely,


Edward Tuddenham